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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/775,290   | 02/10/2004  | Yuan-Hung Liu        | TSM03-0649          | 1174             |
| 25962  | 7590        | 04/25/2006           | EXAMINER            |                  |
| SLATER & MATSIL, L.L.P.<br>17950 PRESTON RD, SUITE 1000<br>DALLAS, TX 75252-5793 |             |                      | LEE, CALVIN         |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2818                |                  |

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/775,290

Applicant(s)

LIU et al.

Examiner

Lee, Calvin

Art Unit

2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2006 (Amendment).
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10,21-30 and 41-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-10,21-30 and 41-50 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**OFFICE ACTION**

***Response to Amendment***

1. The amendment of claims 41 and 46 dated January 24, 2006 is acknowledged.

***Election/Restriction***

2. This invention application contains claims directed to two (2) patentably distinct species:  
Group A (1-10 and 21-30): A method of forming a composite spacer for use with a split gate flash memory cell on a substrate [class 438, subclass 201];

Group B (41-50): A method of forming a coupling spacer for use with a split gate flash memory cell on a substrate having a substrate insulating layer thereon [class 438, subclass 303].

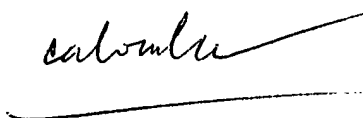
Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Applicant must choose either one species of Groups A or B, because the composite spacer formation in Group A does not mention or suggest a conductive layer extending between a floating gate and a substrate insulating layer.

3. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and must include an election of the invention to be examined even though the requirement is traversed (37CFR 1.143).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Any inquiry concerning this communication from the Examiner should be directed to *Calvin Lee* at (571) 272-1896 on Mon. thru Thu. 6:30-4:30PM. If attempts to reach the examiner by telephone are unsuccessful, Art Unit 2818's Supervisory Patent Examiner *David Nelms* can be reached at 571-272-1787.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. For more information about the PAIR system, see <http://pair-direct.uspto.gov> Should you have questions on access to the PAG system, contact the Electronic Business Center (EBC) at 1-866-217-9197.



Date: April 21, 2006